

**BEFORE THE NORTH CAROLINA INDUSTRIAL COMMISSION**

FILE NUMBER 16-042725

NANETTE MORGAN ISENHOUR, Widow, Wholly Dependent on JOHN ISENHOUR,  
Deceased Employee, and Guardian of the Minor Children

WILLOW GRACE ISENHOUR, Minor Child, Wholly Dependent on JOHN ISENHOUR,  
Deceased Employee,

LOGEN CONNOR MORGAN, Minor Stepchild, Wholly Dependent on JOHN  
ISENHOUR, Deceased Employee

BROOKLYN RILEY MORGAN, Minor Stepchild, Wholly Dependent on JOHN  
ISENHOUR, Deceased Employee

(Hereinafter called "Plaintiff Dependents")

FORSYTH COUNTY  
(Hereinafter called "Employer")

PMA Companies  
(Hereinafter called "Servicing Agent").

**AGREEMENT OF FINAL SETTLEMENT AND RELEASE**

THIS AGREEMENT OF FINAL SETTLEMENT AND RELEASE, made and entered  
into this, the 25th day of April, 2017 by and between the Nanette Morgan Isenhour, Willow  
Grace Isenhour, Logen Connor Morgan, and Brooklyn Riley Morgan, hereinafter called  
the Plaintiff Dependents, and Forsyth County, hereinafter called the Employer, and by  
and through PMA Companies, hereinafter called the Servicing Agent,

WITNESSETH:

WHEREAS, the parties are subject to and bound by the provisions of the North  
Carolina Workers' Compensation Act and, on the 18th day and 28<sup>th</sup> day of September,

2016, the relationship of Employer-Employee with John Isenhour existed; and

WHEREAS, John Isenhour, hereinafter referred to as the Deceased Employee, age 38, suffered a compensable injury by accident arising out of and in the course and scope of his employment when on September 18, 2016, he was struck in the roadway by a car while directing traffic in the performance of his duties as a Deputy Sheriff. He suffered severe trauma due to the accident and died as a result of these injuries on September 28, 2016. See Death Certificate attached; and

WHEREAS, the Employer and Servicing Agent accepted the Deceased Employee's claim under a Form 63 on September 30, 2016. A Form 22 indicates an average weekly wage of \$761.12, yielding a compensation rate of \$500.77. No indemnity benefits have been paid. The parties have determined that total medical expenses amount to approximately \$224,000.00 for inpatient treatment and surgery at Wake Forest Baptist Hospital for eleven days. The Employer and Servicing Agent have not yet paid any medical expenses and are in the process of paying said expenses as they are submitted by Wake Forest Baptist Hospital. The Employer and Servicing Agent have paid funeral expenses in the amount of \$5,583.73 directly to the funeral home pursuant to N.C. Gen. Stat. § 97-38. The funeral expense invoice is attached; and

WHEREAS, Nanette Isenhour was legally married to and living with Deceased Employee at the time of his injury and death. As such, all parties to this Agreement agree that Nanette Isenhour qualifies as Deceased Employee's widow and is presumed to be wholly dependent on the Deceased Employee at the time of his death under N.C. Gen. Stat. §§97-39 and 97-2 (14). See Affidavit of Nanette Isenhour and Marriage Certificate,

attached; and

WHEREAS, Deceased Employee had only one biological child during his lifetime, Willow Grace Isenhour. See Affidavit of Charles Thomas Isenhour, father of Deceased Employee attached. Deceased Employee had two minor stepchildren at the time of his death, Logan Connor Morgan and Brooklyn Riley Morgan. See birth certificates attached for the three minor children; and

WHEREAS, Decedent Employee had three (3) adult stepchildren at the time of death, the biological children of Nanette Isenhour. They were Dylan Chapman, Spencer Chapman and Jessica Morgan. These three children were over the age of 18 at the time of Decedent Employee's injury and death. All three adult stepchildren were not living with Decedent Employee at the time of his injury and death and were not wholly, substantially, or partially dependent on the Decedent Employee at the time of his injury and death. See Affidavit of Nanette Isenhour attached; and

WHEREAS, On April 17, 2017, the Industrial Commission approved three Forms 42, appointing Nanette Isenhour as the Guardian *Ad Litem* for Willow Grace Isenhour, Brooklyn Riley Morgan, and Logan Morgan. See, Forms 42 attached; and

WHEREAS, Willow Grace Isenhour, as the biological minor child of Decedent Employee, is presumed to be "wholly dependent" for support upon the earnings of Decedent Employee at the time of his death pursuant to N.C. Gen. Stat. § 97-39; and

WHEREAS, all Plaintiff Dependents stipulate and agree that dependent stepchildren Logan Connor Morgan and Brooklyn Riley Morgan relied on Decedent Employee for day-to-day financial support and that they were substantially dependent on

him for support at the time of his death. As such, all Plaintiff Dependents stipulate and agree that both minor step children qualify as a child of Decedent Employee and are, therefore, entitled to the conclusive presumption of being wholly dependent on Decedent Employee at the time of his death under N.C. Gen. Stat. §§ 97-39 and 97-2(12). See Affidavit of Nanette Isenhour, attached; and

WHEREAS, the parties to this Agreement agree that the Employer and Servicing Agent have conducted a thorough investigation as to the existence of other dependents of Decedent Employee who could be entitled to the death benefits under the North Carolina Workers' Compensation Act as required by Industrial Commission Rule 409 (b). No other minor children, other than Willow Grace Isenhour, Logan Connor Morgan, and Brooklyn Riley Morgan, are known to exist and that these are the only children Decedent Employee had at the time of his death. See Affidavit of Charles Thomas Isenhour, Decedent Employee's father, attached; and

WHEREAS, all parties to this agreement stipulate and agree that the only beneficiaries of Decedent Employee entitled to receive the death benefits under the North Carolina Workers' Compensation Act, N.C. Gen. Stat. §§ 97-38 and 97-39, are Nanette Isenhour, Willow Grace Isenhour, Logan Connor Morgan, and Brooklyn Riley Morgan. On September 28, 2016, there were no other persons wholly or partially dependent upon the Deceased Employee for support. Nanette Isenhour asserts that she is authorized to represent the three children to this Agreement and has determined that this settlement is in the best interest of the three children. The parties understand and agree that the representations by all of the Plaintiff Dependents in this Agreement go to the heart of this



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paragraphs concerning the course of the Decedent Employee's medical treatment are only a brief synopsis of the course of said treatment. The examinations, evaluations, and treatment received by the Decedent Employee are more fully set forth in the relevant medical and rehabilitation reports which are submitted to the North Carolina Industrial Commission along with this Agreement. The contents of said documents are hereby incorporated by reference as if fully set forth herein. The Plaintiff Dependents and their attorney, Carl Parrish, certify that the reports attached hereto constitute a full and complete copy of all relevant medical and rehabilitation reports known to exist as required by N.C.G.S. section 97-82 and 04 NCAC 10A.0502(b)(1). Plaintiff Dependents acknowledge that Defendants have agreed to the terms of this settlement and will be making the payments called for herein in reliance upon that certification. The parties to this Agreement hereby waive further hearings before the North Carolina Industrial Commission and, in presenting this Agreement for approval, represent that they have made available to the Commission with said Agreement all relevant medical and rehabilitation reports known to exist. The parties hereby stipulate and agree to waive any rights they may have to contest the approval of this Agreement based upon any failure to provide copies of relevant medical or rehabilitation records to the Industrial Commission with this Agreement for approval; and

WHEREAS, the Decedent Employee did not return to work after the accident and his employment ended with the Employer on the date of his death; and

WHEREAS, the Plaintiff Dependents contend that the Defendants are liable for all benefits allowed under the Workers' Compensation Act, including payment of temporary

total disability benefits. The Employer and Servicing Agent contend that this settlement fairly resolves the payment of benefits owed to Decedent Employee and the Plaintiff Dependents under the Act, and that the settlement fairly resolves the Employer's subrogation right under North Carolina Gen. Statute Sec. 97-10.2; and

WHEREAS, the Plaintiff Dependents are represented by Carl Parrish Law PLLC, Winston-Salem, North Carolina, Carl Parrish, appearing, and the Employer and Servicing Agent are represented by the Kestenbaum Law Firm, Durham, North Carolina, Jane Kestenbaum appearing; and

WHEREAS, the Plaintiff Dependents, Employer, and Servicing Agent feel that it is in the best interest of the parties to have finality of litigation in these matters, and to that end desire to compromise and settle all matters in controversy among themselves, without the necessity of any hearing before the North Carolina Industrial Commission, subject to the approval of said Commission, as by law provided.

NOW, THEREFORE, notwithstanding the controversy between the Plaintiff Dependents and the Defendants, and in specific recognition of the need for finality in the litigation, and in consideration of the things hereinabove received as having been done and the things hereinafter agreed to be done and the mutual agreements on the part of each of the parties, it is agreed as follows:

1. The Employer and Servicing Agent are hereby released from any and all further indemnity liability arising out of the Decedent Employee's September 18, 2016 accidental injury and death on September 28, 2016. In consideration of the release from past and future indemnity benefits owed by the Employer and Servicing Agent to the

Deceased Employee and Plaintiff Dependents, the Employer and Servicing Agent hereby reduce their third-party lien pursuant to N.C. Gen. Stat. § 97-10.2 from approximately \$496,433.37 to \$0.00 in full settlement of their subrogation interest in respect to all payments made or to be made from the third-party recovery from Amerisure, Insurance carrier for the motor vehicle driven by Jessie Cook, related to this claim. The Employer and Servicing Agent remain liable for medical bills incurred as the result of the Deceased Employee's accepted, compensable injuries and death.

2. The Employer and Servicing Agent will pay, or cause to be paid, any medical bills incurred as the result of the Deceased Employee's accepted, compensable injuries. It is further agreed by the parties that the positions of the respective parties to the Agreement are reasonable as to the payment of medical expenses. The parties hereby acknowledge that the issue of payment of medical expenses is a material element to the Employer and Servicing Agent and Plaintiff Dependents entering into this agreement.

3. The Employer and Servicing Agent agree to pay or cause to be paid the costs of this proceeding before the North Carolina Industrial Commission.

4. It is understood and agreed by the Plaintiff Dependents, that in making this release and agreement, they were not influenced by any representations or statements regarding the Deceased Employee's condition or death, or regarding any other matters, made by any person, firm or corporation, or by any physician or surgeon acting for or on behalf of the Employer or its successors, or Carriers or Third-party Administrators, that the facts in connection with Decedent Employee's employment and with his injuries and

death are fully known, understood and comprehended by the Plaintiff Dependents, and that any rights under the Workers' Compensation Act are thoroughly and completely understood by them.

5. Plaintiff Dependents agree to accept the sums herein agreed to be paid to them or on their behalf and the reduction of the Employer's and Servicing Agent's subrogation lien to \$0.00, in full, final and complete settlement and satisfaction of any past, present and future claims, demands, suits, actions or rights of action of whatsoever nature and kind, which the Deceased Employee and Plaintiff Dependents now have or may hereinafter have or claim to have on account of the alleged injuries of September 18, 2016 and death on September 28, 2016. It is the sense of this agreement that the said sums so agreed to be paid shall be accepted in full settlement and satisfaction of all claims arising out of alleged injuries of September 18, 2016 and death on September 28, 2016, whether presently existing, or presently known, or whether hereinafter existing, appearing or otherwise, and whether by virtue of things now existing or by change of conditions hereinafter. As such, the Plaintiff Dependents do hereby remise, release, and forever discharge Forsyth County and PMA Companies, their administrators, agents, servants, stockholders, principals, partners, employees, employers, general and limited partners, directors, officers, shareholders, parents, subsidiaries, affiliates, assigns, representatives, predecessors, and successors, each in their corporate and individual capacities, of and from any and all and every manner of action and actions, cause or causes of action, suits, debts, dues and sums of money, judgments, demands and claims whatsoever that Plaintiff Dependents ever had or may now have, or which any heirs, next

of kin, personal representatives, or any other person whomsoever, hereinafter can, shall or may have by reason of or growing out of the terms and provisions of the North Carolina Workers' Compensation Act on account of Deceased Employee's Injuries and death that give rise to this claim for compensation. However, it is further agreed that no rights other than those arising under the provisions of the Workers' Compensation Act are compromised or released. The Plaintiff Dependents knowingly and intentionally waive any right they may hereafter have to claim any medical and indemnity compensation for the injuries which are the subject of this agreement.

6. The parties to this agreement hereby waive any hearing before the North Carolina Industrial Commission, and in presenting this agreement for approval, they represent that they have made available to the Commission with said agreement all medical information presently in their possession concerning the Deceased Employee's physical condition.

7. This agreement is made expressly subject to the approval of the North Carolina Industrial Commission and to the provisions of the North Carolina Workers' Compensation Act, and the same shall be binding upon the parties to this agreement only if and when the same shall have been submitted to and approved by said Commission either by the endorsement of its approval hereon or by the issuance of its award approving the same.

IN WITNESS WHEREOF, the parties hereto have set their hands and all the Plaintiff Dependents have adopted as their seal the "Seal" appearing beside their signature, all as of the day and year first above written.

Nanette Isenhour (Seal)  
NANETTE ISENHOUR, Widow, Wholly Dependent on  
JOHN ISENHOUR, Deceased Employee

Nanette Isenhour (Seal)  
WILLOW GRACE ISENHOUR, Minor Child  
Wholly Dependent on JOHN ISENHOUR, Deceased Employee,  
By NANETTE ISENHOUR, as the Guardian Ad Litem

Nanette Isenhour (Seal)  
LOGEN CONNOR MORGAN, Minor Stepchild,  
Wholly Dependent on JOHN ISENHOUR, Deceased Employee,  
By NANETTE ISENHOUR, as the Guardian Ad Litem

Nanette Isenhour (Seal)  
BROOKLYN RILEY MORGAN, Minor Stepchild,  
Wholly Dependent on JOHN ISENHOUR, Deceased Employee,  
By NANETTE ISENHOUR, as the Guardian Ad Litem

STATE OF NORTH CAROLINA

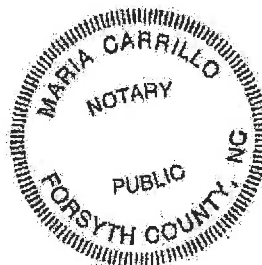
COUNTY OF Forsyth

I, Maria Carrillo, a Notary Public in and for said County and  
State, do hereby certify that NANETTE ISENHOUR personally appeared before me this  
day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this, the 3rd day of May, 2017.

Maria Carrillo  
Notary Public

My Commission Expires: May 13, 2020



FORSYTH COUNTY,

Employer

By: 

Attorney

PMA Companies,  
Servicing Agent

By: 

Attorney

By: 

Jane Kestenbaum  
NC State Bar No. 18459  
Attorney for Employer  
Kestenbaum Law Firm  
P.O. Box 51939  
Durham, North Carolina 27717  
(919) 459-2361

Consented to by:  
Carl Parrish Law PLLC

By: 

Mr. Carl Parrish  
N.C. State Bar No. 6323  
250 Executive Park Blvd # 109,  
Winston-Salem, NC 27103  
(336) 766-1600